

# Research on the Mechanism of Unreasonable Objective Attribution

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**Abstract**—The essence of causality in criminal law is to examine whether the "justice" that results in the formation of the constituent elements can be counted as the value judgment of the perpetrator. The positive causal relationship between the Soviet and Russian criminal jurisprudence and the accidental causality theory and the "Conditional Theory", "Cause of Reason", "Correspondence Theory of Causal Relationship" under the German-Japanese criminal law are all unable to "cut-through" the factual attribution objectively blaming the historical limitations of the "gap", so the attribution judgment of the result of the actual crime cannot be solved by the philosophical path. It should be based on the factual attribution to enter the scope of hermeneutics, that is, first use the "Conditional Theory", from the standpoint of ontology, affirm the factual causal relationship between behavior and result, and then draws on the lower rules such as "Dangerous Creation" and "regulate protection purpose" in objective imputation theory. Through regulated evaluation, the results can be attributed to the behavior of the conclusion.

**Keywords**—causality; objective attribution; risk creation; protection purpose

## I. INTRODUCTION

The constitution of crime is the unity of objective imputation and subjective imputation. In the case of the result of the crime, the subjective attribution of the perpetrator not only requires the implementation of the constituent elements, but also requires a criminal causal relationship between the behavior and the constituent elements. On the one hand, "the society nowadays is becoming more and more complex, and the reasons for the formation of the elements are not as clear and easy to distinguish as in the past. The development of industrialization, marketization and intelligence makes the danger more diversified, and the causal relationship is difficult to distinguish.<sup>1</sup> On the other hand, "the theory of causality is one of the most confusing issues in criminal law in China, and it is also the most unsuccessful field in criminal law theory."<sup>2</sup> So, there is a Protosian face and the cause and effect of different practice scenes at any time. Relationships and complicated causal theory disputes directly "promoted" the

confusion and even confusion in practical processing, and led to different judgments in the judicial practice. This not only affects the uniformity of judicial application, but also impacts the principle of criminal rule of law - the effect of human rights protection of crimes and statutory rights. Practice has proved that the philosophical causal theory is unable to overcome the constraints of the causal thinking paradigm, and has never correctly revealed the nature of the causal relationship of criminal law. Therefore, there is no clear and operative judgment method in specific cases.

In the 1970s, the famous German criminal jurist Claus Roxin proposed the theory of objective imputation and constructed a judgment model that distinguishes attribution and imputation, therefore, the focus of causal relationship in criminal law is shifted from "whether or not" in the material-based logical standpoint to "whether or not should" in the perspective of value philosophy. As Professor Roxin pointed out, "As long as people interpret 'illegal' as a legal interest violation caused by the impermissible danger, it can simultaneously achieve a transition from ontology to normative."<sup>3</sup> In recent years, although the theory of objective imputation as an "imported product" and has aroused extensive discussion and attention in the field of criminal law in China, it is far from satisfying the "rigid demand" expectation of judicial referee. This is mainly because the research of its theoretical basis and system locator has a quite great number, while its practice operators who discusses it and practical person who handles the cases are extremely rare. In view of the current domestic academic circles on the "import" criminal law causal theory has been quite rich and mature, so this paper will neither intend nor need to do detailed explanation.

Through the empirical analysis of the difficult causal case, this paper draws on the dangerous creation principle and the normative protection purpose concept in the objective imputation theory, and attempts to find a responsible path to break through the traditional causal theory barrier and restraint.

<sup>1</sup> Jin Tao and Liu Shixin: *A New Probe into the Determination of Causality in Criminal Law — On the Causal Relationship of Interventional Factors*, published in *Journal of Huaqiao University (Philosophy and Social Sciences Edition)*, 2016, No. 3, p. 61.

<sup>2</sup> Liu Yanhong: *Objective Imputation Theory: Questioning and Reflection*, published in *"Chinese and Foreign Law"*, No. 6, 2011, p. 1233.

<sup>3</sup> C. Roxin. *Das strafrechtliche Unrecht im Spannungsfeld von Rechtsgüterschutz und individueller Freiheit*, ZStW, 116(2004), S.931.

## II. ANALYSIS OF THE NATURE OF CAUSALITY IN CRIMINAL LAW

### A. *Factual Attribution: the Historical Bottleneck of Traditional Causal Theory*

Causality is not a physical existence alongside behavioral subjects, behaviors, behavioral objects, and outcomes, but an objective connection between behavior and outcome. The traditional causal theory is the guiding principle for judging the existence or absence of such an objective connection. Among them, there has long existed a fierce debate about the positive causal relationship as the basic form and the accidental causal relationship as a supplementary form in the theory of causality in the criminal law of Soviet Russia. The positive causal relationship says that when the harmful behavior contains the basis of the harmful result and the harmful result is produced regularly, the causal relationship between the harmful behavior and the harmful result is the positive causal relationship. Only this kind of positive causal relationship is the positive causal relationship in criminal law.<sup>4</sup> Obviously, the positive causal relationship says that the contingency of causality is excluded, and the result of the accident is excluded from the result of the behavior, so it is criticized by the occasional causal relationship. On the contrary, the accidental causal relationship advocates that when the harmful behavior causes a certain harmful result, the result is in competition with another harmful behavior or event, which regularly produces another harmful consequence. The previous harmful behavior is not the decisive factor of the final result, the final result may or may not appear for the previous hazard behavior, it may occur, or may occur as such. There is an accidental causal relationship between them.<sup>5</sup>

This paper believes that the "Positive Causal Relationship Theory" and "Accidental Causality Theory" are similar to the traditional causal theory such as "Conditional Theory", "Cause of Reason" and "Consistent Causality Theory" in German and Japanese sentences. It only defines the causal relationship of criminal law from the perspective of philosophy, and regards it as a physical and real relationship. It is difficult to obtain theoretical comparative advantage and lack of adaptability in judicial practice. For example, the "Conditional Theory" says that the necessary conditions are used as the cause of criminal law, and the "Cause of Reason" claims that it is necessary to select one of the necessary conditions that best meets the requirements according to certain criteria as the criminal law. Therefore, the "Conditional Theory" says that it is necessary to examine whether the behavior of the actor plays a role in a particular causal process; and the "Cause of Reason" claims to examine how much the actor's behavior contributes to a particular causal process. For another example, although the criminal law scholars have recognized that the causal relationship has entered the field of objective attribution, whether it is the Adequate Causation of probability theory or the Adequate Causation of empiricism, it only takes the objective causal process of the actor as the object of investigation from the beginning. By simply introducing the

value judgment of social experience to eliminate those conditions that happen by chance and are not of great significance in criminal law, but does not give any value correlation to the constituent elements, so that the judgment of equivalence lacks substantial basis, so people can give the empty and abstract equivalents of various meanings and standards to make it alienated into a universal principle that can derive any conclusion from the evaluator's subjective value preference. Some scholars have pointed out that the core content of the theory of Adequate Causation is still the same as factual judgment and empirical judgment. The standard is physics common sense, the causal relationship is equal to the physical relationship, and it is a scam of a century under Adequate Causation theory.<sup>6</sup> It can be seen that, contrary to the attribution logic, the traditional causal theory's research on the causality of criminal law is limited to the factual proposition of "yes or no", and always falter between natural and physical judgment and social and empirical review. Correspondingly, judicial referees generally use philosophical causality as a guide to deal with specific criminal cases in real life, and do not focus on the purpose of punishment to conduct a standardized evaluation of causality.

### B. *Objective Imputation: the True Reveal of the Causal Relationship of Criminal Law*

According to the above, the traditional causal theory in the attribution category has the characteristics of non-type and non-normative. The judicial determination of the causality of the criminal law case only has the symbolic meaning of formal judgment and fact evaluation, the causal relationship of criminal law is generalized, which may expand the scope of criminal law. After all, it is not conducive to the realization of the general prevention function of criminal law to make the defendant a result of major causal deviation. Therefore, in order to solve the problem of the infinite retrogression of the objective existence of the traditional causal theory, the theory of the discontinuance of causal relationship, the individualization of causes and the prohibition of retroactivity have emerged in the theory of criminal law. However, the revised causal theory still has the historical limitations of "cutting-through" the factual attribution and the objective imputation "gap", and thus cannot properly resolve the attribution judgment of the result of the actual crime. From this point of view, aside from the shackles of attributional logic in philosophical concepts, it is a general trend to re-architect judicial personnel's understanding of the causal relationship of criminal law. After all, the concept of "cause" in criminal law is a concept of relationship between law and social influence. It has ontological and normative meanings, which is different from the causal concept in natural science and the concept of causality in philosophy.<sup>7</sup> Therefore, the philosophical causality is only an ontological concept, and the criminal law causality is a normative concept. The difference between the two lies in the fact that existential theory studies factual propositions, while normative theory focuses on value propositions.

<sup>4</sup> See Gao Mingxuan: *Criminal Law*, Law Press, 1984, pp. 129 below.

<sup>5</sup> Gao Mingxuan, Editor-in-Chief: *Monograph on Criminal Law*, Higher Education Press, 2nd edition, 2006, after page 190

<sup>6</sup> See Xu Yuxiu, "Contemporary Criminal Law Thoughts", China Democracy and Legal Publishing House, 2005, p. 457.

<sup>7</sup> (Germany) Johannes Wessels: "General Review of German Criminal Law" translated by Li Changke, Law Press, 2008, p. 94.

For the evaluation of sin, the factual proposition simply refers to the objective neutral expression of "true/false", while the value proposition also includes the subjective evaluation of "legal/illegal" and "responsible/non-responsible". Value is not a reality, but it reveals the meaning of reality. In other words, factual causality refers to a relationship between behavior and outcome that is objectively related to the relationship between the decision and the causal relationship between the philosophical or scientific level. It is intended to reveal the essence of the material world or some basic function of its operation. Or the truth of experience, and the causal relationship of criminal law is a conceptual and ethical relationship. The purpose of the causal relationship at the legal level is to provide a just basis. If the defendant is responsible for the violation of the actual legal interest, it must be at the normative level. It can be judged that the result is not the "fruit of the poison tree" in which the defendant is acting illegally. In this sense, the connotation of the value of "norms and policies" is the essence of the causal relationship of criminal law.

### III. RESULTS ILLEGAL OBJECTIVE IMPUTATION PATH GUIDANCE

#### A. *Relationship Clarification Between Attribution and Imputation*

In the relationship between fact attribution and objective imputation, W. Windelband, one of the representatives of neo-Kantianism, made the following classic expression: "The 'fact' of the factual proposition is not only related to the understanding of facts, but also related to the evaluation of facts, so it is the bridge between the real world and the world of value. It is the connection between these two different worlds."<sup>8</sup> That is to say, fact attribution is aimed at determining the existence of facts: determining whether the behavior is the de facto or conditional cause of the result; normative evaluation is to further explore whether the "debt" of the result of infringement of legal interests can be accounted for the value judgment of the actor. The causal relationship of criminal law is the value evaluation under the premise that the factual causal relationship can be proved, so it is a substantive and normative judgment.

In the value judgment process of the attribution of the legal infringement result, it is necessary to introduce the concept of danger, and the danger is the link between the behavior of the constituent elements and the result of the constituent elements. This is because the nature of crime is to infringe on the benefits of law. The purpose and task of criminal law is to protect legal interests. The method of protection is to type the behaviors that have the danger of legal interest and to impose differentiated penalties. Therefore, the result of the constituent elements is the product and representation of the realizing the dangerous reality of the constituent elements. Therefore, the generation of the actual legal infringement must follow the process of transforming from the "dangerous outcome" (the objective state in which the legal interest caused by the act of the element is threatened by the infringement) to the "practical

result", specifically (take intentional homicide as an example): posing danger (behavior caused by the death of others) → Increased danger (increased risk of death) → danger realization (death outcome). It can be seen that the substantive judgment of the attribution of the results is the object of investigation of the constituent elements and the constituent elements.

#### B. *The Establishment of Handlungsrecht*

In the field of doctrinal jurisprudence, the lack of stereotypes in the constitutive elements (implementation behavior) of crimes such as murder, injury, and destruction of property is the basic condition for the formation of theoretical theories such as "dangerous creation" and "normative protection purposes." Because the implementation of the above-mentioned crimes is difficult to type, it is often impossible for front-line judicial personnel to accurately grasp the behaviors of killing, hurting, and destroying property in the "multi-cause-one-fruit" case. Finally, it is found that there is no specific behavioral profile or the guiding image, it can only be reversed based on whether the legal benefit is ultimately infringed. In this sense, the enlargement of the factual attribution is the result of the killing behavior and the harm behavior that the conceptual image of the crime is difficult to describe. According to this, if the provisions of the criminal law describe the constitutive elements in detail, there will be no problem of infinite retrogression of facts. Thus, a theory of behavior that can explain what behavior constitutes the elemental behavior and limits the scope of the factual attribution expansion is on the horizon.

After the emergence of the theory of dangerous creation, the constituent elements of the crime of murder and injury are no longer a formal name with a virtual form, but a substantial connotation by the "danger of not allowed by the manufacturing law." Therefore, when the result is manifested as the casualties of others, it is possible to "whether or not to create the risk of causing casualties" as a criterion for whether the behavioral pattern that caused the fact is a criminal judgment of the murder or injury. Therefore, it is necessary to reveal the core meaning and judgment mode of the concept of "danger that the law is not allowed".

In the context of this paper, the concept of "danger that the law is not allowed" has a status dependency, involving the certainty of legal benefits and the empirical nature of judgment criteria.

First, the "danger that is not allowed by law" is attached to the act of constituting the element, and the act of constituting the element is always a legal interest violation in the form of realizing the artificially impermissible form of danger. The act of lawlessness stems from the violation of the obligations constituting the element. Therefore, the act creates the danger of prohibition of the criminal law, that is, the prompting and revealing of the act of lawlessness, and involves the independent identification and judgment of the violation of the code of conduct.

Second, as mentioned above, the task of the criminal law is to promote the "free development of human beings" by creating the necessary elements and social space to protect the

<sup>8</sup> Editor-in-Chief Han Zhen: "Western Philosophy Course", Beijing Normal University Press, 2006 edition, after page 301.

individual's free development by creating the constituent elements and prohibiting the infringement. The constituent elements are all the typed description of the state of affairs for violations of the protection of the law. Therefore, in the interpretation of criminal law, "danger that is not allowed by law" has the core of "typed legal interests and dangers."

Third, whether the danger is allowed or not, based on whether the danger is sufficient to infringe the legal interest, whether the danger actually infringes or threatens the legal interest, and it can be judged according to the rule of thumb. However, the empirical judgment of the "danger that is not allowed by law" is not based on the "possibility of the act that causes the infringement to occur", but is based on the state of threat to the legal interest caused by the act. According to this, if the perpetrator reduces the risk of legal infringement that the victim has already faced, and thus the situation of the object of the behavior is improved compared with the original, the proposition that "danger that is not allowed by law" does not hold.

The construction of the "danger that is not allowed by law" model depends mainly on the choice of judgment data, judgment position and judgment time. At present, the controversy about the judgment mode of dangerous creation is to determine whether the special understanding and subjective foresight possibility of the perpetrator should be considered when judging the selection of materials. In this regard, some scholars have pointed out that if the special understanding of the perpetrator and the subjective anticipation possibility are taken as dangerous judgment materials, it can be clearly felt that the strong penetration and impact of subjective factors on objective factors and the entanglement and confusion between subjective and objective categories.<sup>9</sup> This paper considers the above points to be debatable:

Firstly, the foreseeable possibility is not the true subjective psychological state of the actor, but the objective recognition relative to the rational third person, that is, the foreseeable possibility is the normative standard for examining the subjective cognitive ability of the actor and the objective cognitive situation. Therefore, examining the special understanding of the actor in the objective attribution evaluation only means determining the scope of the objective facts that can be judged by the foreseeable possibility. Therefore, it is not the subjective perception itself but the objective existing fact. All in all, in the judgment of danger, "subjective or personal factors themselves are not the basis of judgment, but the selective criteria that determine which parts of the facts can be included in the basis of judgment".

Secondly, the criminal law norm has the dual attributes of behavioral norms and refereeing norms. Among them, the code of conduct is aimed at all citizens, and it attaches importance to the general prevention and special prevention of creating evils that conform to the constituent elements. By prescribing the price list of crimes, it informs the nationals of what they should or should not regularize social behaviors, regulate

<sup>9</sup> Chen Xuan: "On the Judgment Method of Danger in Objective Imputation: The Advocacy of the 'General People's Prediction Based on the Overall Objective Facts of Behavior' ", published in *Chinese Law*, No. 3, 2011, p. 150.

social relations and maintain social order. The fact that the object pointed to by the specification cannot be realized is meaningless to the exertion of the normative effect, so it should not and does not need to enter the normative field. Therefore, the fact-finding model of "the general understanding + the actor's special understanding" coincides with this requirement. Because it excludes the objective facts that can't be recognized by any normative object from the scope of liability investigation in the stage of objective constitutive elements, instead of waiting for the stage of subjective constitutive elements to deny the wrongfulness of behavior.

Finally, there should be no simple conflation between "the actor has a special understanding" and "the actor understands the danger and uses the danger". In fact, the particular controversy is whether or not the obligation to pay attention to danger prevention arises from this understanding. In particular, if the perpetrator is considered to have a special understanding and has a duty of care for danger prevention, if the perpetrator violates the duty of care, the perpetrator may be objectively liable (usually not established as a crime). Of course, it is obviously unscientific to assume the duty of care for dangerous precautions only because the actor has a special understanding. In the case where the perpetrator has a special understanding, the key to whether or not to create a duty of care is whether the perpetrator uses his or her superior knowledge to exclusively control and control the imminent danger of infringement of legal interests. If a positive conclusion is reached, the perpetrator should be considered to have created the danger of a criminal law prohibition.

### *C. Justification of Consequence Unlawfulness*

Although the consequence unlawfulness is not the actualization of the prohibition of danger contained in the act of misconduct, it is worthwhile to ask whether the result can be blamed (hazard realization theory) as long as the result achieves the danger that the law does not allow it. The answer is negative, because if the results are not legally constrained, the infinite regression of fact attribution will be repeated again at the outcome of the causal process. In order to limit the scope of the result of the lawlessness, some German scholars pointed out: "The behavior of creating danger and realizing the risk should be objectively predictable. The result should be the realization of the danger of behavior creation, the accidental result beyond the foresight of life experience. It cannot be attributed to the constituent elements. The realization of the salience here means that the dangerous flow is realized as a result of the actual law in accordance with the rule of thumb. Even if the dangerous flow (causal process) deviates, if it does not exceed the life experience. The foreseeable scope is objectively predictable, and the results of manufacture are still considered to be equivalent realizations of dangerous flows."<sup>10</sup>

In this paper, the realization of the theory of dangerous realization and the realization of the dangerous flow are based on the judgment conclusions drawn from the logical position of the material and do not consider the purpose of the

<sup>10</sup> Vgl. Rudolf Rengier, *Strafrecht Allgemeiner Teil*, 5. Aufl., 2013, § 13, Rn.62.

normative protection behind the provisions of the criminal law. Therefore, those results that achieve the prohibition of risks but do not meet the purpose of normative protection will be attributed to the actor. These two ideas are of course necessary for the attribution of results, but not enough. It should be noted that modern criminal law is based on criminal policy, and any norm is a manifestation of rationality with a certain purpose. The reason why the criminal law affixed certain acts to the "tags" of crimes and penalties for the criminal's department has a certain purpose behind it. In some cases, although the result is a prohibition of danger, preventing the occurrence of this result is not the purpose of the normative protection of the provisions of the criminal law. At this point, in accordance with the realization of the theory of dangerous realization and the dangerous flow, it is necessary to blame the results. But this kind of imputation has no meaning in criminal policy. That is, when the result is not within the purpose of the protection of the provisions of the criminal law, the perpetrator may not be able to achieve the effectiveness of general prevention. Therefore, objective attribution always depends on the specific relevant behavioral norms and purpose structures.

This paper argues that the proof of the illegality of the results in the context of the protection of protection needs to distinguish between positive and negative exclusion. Among them, the nature of positive identification is not to explore the "legislative original intention", but to clarify the meaning of the legal text of the criminal law for the reality and the purpose of regulating society. Reverse exclusion includes both the victim's self-responsibility and the lack of outcome avoidance.

The theory of regulating the purpose of protection is mainly applied to the problem of imputation of the transgression at first. Now it is one of the lower rules of the theory of objective imputation, serving the criminal accusation of the result of the crime: if the result is not illegal, if it is not the act of the perpetrator, and if the danger of rejection is realized, the result is not the work of the perpetrator. For example, A drunk drove a motorized vehicle on a closed highway and killed B, who suddenly crossed the road. In this case, A's behavior undoubtedly violated the provisions of Article 22 of the Road Traffic Safety Law prohibiting drunk driving. There is a factual causation relationship between the drunk driving behavior and B's death. A's behavior is almost no suspense in the current judicial practice. However, the normative purpose of prohibiting drunk driving is to prevent traffic accidents caused by loss or weakening of the driving ability of the vehicle. Therefore, the result of the case is not to prohibit the realization of the danger rejected by the drunk driving specification, that is, the lack of normative protection between the drunk driving behavior of A and the death of B. It can be seen that the purpose of the theory of normative protection answers the question of what result is the reason of constitutive elements from the perspective of axiology, constrains the result of illegal, and reconciles the mismatching contradiction between the literal meaning of the provisions of criminal law and the purpose of norm.

Under normal circumstances, with the help of context, history, system and other interpretation methods, it is possible to fully understand the objective meaning of adapting to the diversity and complexity of social reality. If the method of

teaching cannot solve the problem, it can also rely on legal philosophy, sociology, and cultural studies. And comparative law and other methods to identify the criminal policy endorsed by the legislators. Even Hart and Onor, who criticize the theory of normative protection purposes, believe that "in many cases, a particular statute or common law rule has a rather limited purpose, and the court can determine or discover it."

It should be pointed out that although the substantive interpreters emphasize the interpretation of the constituent elements, they must be guided by the legal protection of the provisions of the criminal law. But legal benefits are not the same as normative protection purposes. Legal interest is "the object of the criminal law normative protection, and the thing behind it." Kinder Hoyzel argues that "the purpose of the code of conduct in criminal law is to protect people, things and attributes that are positively evaluated in the system from harmful changes. In the usual terminology, this positively evaluated attribute is just the legal benefit. The purpose of regulating protection determines the scope and extent of legal protection. That is, the criminal law does not prohibit all acts or results that infringe on the legal interests, but only those acts or results that infringe the legal interests in a specific way. "Usually, it's not a broad-based approach to all behaviors, but a legal protection for only certain types of behavior." In a word, legal benefits are what the criminal law really wants to protect, and the motives, types, methods, scopes and other contents of protection are entrusted to regulate the purpose of protection.

In the case of the victim's self-responsibility, the consequence unlawfulness is escaped from the jurisdictional protection purpose. Self-responsibility based on self-determination means that people have the freedom to be willing to succumb to the requirements of normative expectations and not to succumb to the incentives for creating dangerous dangers, and to abuse the freedom of will if they deviate from the requirements of normative expectations. (Creating the danger of not allowing is an objective representation of the abuse of will freedom), and it should be at your own risk, that is, the perpetrator must be responsible for the act of self-determination and its consequences. For example, the institutional arrangements for special defense in Article 20, paragraph 3, of the criminal code contain the concept of "self-responsibility": the danger that is not allowed by the law of the defender (infringing on the major interests of the defenders) — exclusive controlling (dominating, controlling) the causal process of dangerous reality — the law order completely denies the legal interests of unlawful infringement, and the interests of defenders are in absolute superior position — the defenders must be at risk and self-sufficient — the pleasure (benefit) generated by the insurmountable danger and the pain (cost) generated by the defending person's counterattack are borne by the defending person. Therefore, the application of special defense clauses means that defenders can be free from the constraints of interest and are not subject to the principle of proportionality.

Similarly, in the case of unavoidable results, the results are not within the scope of normative protection. This is because the criminal entity is illegal and responsible, and the premise of liability censure is that the actor has the choice of appropriate law compliance behavior so as to avoid the

infringement of legal interests on the realistic freedom of will. The abuse of freedom of will and the creation of inadmissible consequences of evil constitute the material basis for the charge of responsibility. The normative significance of choosing appropriate legal compliance behavior lies in avoiding the obligation of the behavioral human subject to prevent the result of criminal law prohibition. However, when the result of the law is not objectively avoidable, the actor loses the discretionary power of the legal process. That is, "the norm is only for those who are implemented by humans and can be manipulated to avoid causing legal damage." When the perpetrator obeys the code of conduct and the result is unavoidable, the result of the requirements of the criminal law norm is avoided. At this time, the actor does not have the freedom of will. Therefore, the law is not difficult for the strong, the ability to overcome the obligation is exempted or that it does not violate the normative obligations.

#### IV. CONCLUSION

The causal relationship has evolved from the judgment of "natural and physical" (conditional) to "social and empirical" (rather of causality) and then to the "normative and policy". The basic paradigm is to divide attribution and imputation, and then consider illegal attribution on the basis of fact attribution. The complexity and diversity of criminal forms make it impossible to identify the causality. There is no general standard that can be applied to all cases, but only a unified processing framework can be provided. The specific definition of the rules still needs to be explored in theory and practice.

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